

OF COUNSEL:

Nicholas Groombridge

Eric Alan Stone

Peter Sandel

Josephine Young

PAUL, WEISS, RIFKIND, WHARTON &

GARRISON LLP

1285 Avenue of the Americas

New York, NY 10019

Tel: (212) 373-3000

Fax: (212) 757-3990

Kevin H. Marino

John D. Tortorella

MARINO, TORTORELLA &

BOYLE, P.C.

437 Southern Boulevard

Chatham, New Jersey 07928-1488

Tel: (973) 824-9300

Fax: (973) 824-8425

Attorneys for Plaintiff Biogen MA Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE BIOGEN '755 PATENT
LITIGATION

Hon. Claire C. Cecchi, U.S.D.J.

No. 10-cv-2734-CCC-MF
(consolidated)

**FINDINGS OF FACT AND ORDER TO REDACT AND SEAL
MATERIALS**

THIS MATTER having been brought before the Court on the motion (the “Motion”) of Plaintiff Biogen MA Inc. (“Biogen”), for an Order to Redact and Seal (an “Order to Seal”) portions of the Transcript of Proceedings held before the Honorable Claire C. Cecchi, U.S.D.J. on January 29, 2018 [ECF No. 1029], and February 1, 2018 [ECF No. 1049], (the “Transcripts”), and the Motion having been brought pursuant to Local Rules 5.3(c), 5.3(g), and 7.1, and this Court having fully considered the Declaration of John D. Tortorella in support of the Motion,

including the Indexes required by Local Rule 5.3(c)(3) and any submissions in further support thereof, as well as the record before it, and no opposition thereto having been filed, the Court makes the following findings:

THIS COURT FINDS that on December 12, 2010, the Court entered a Discovery Confidentiality Order [ECF No. 76] in this litigation.

THIS COURT FURTHER FINDS that the Transcripts contain information regarding and garnered from documents, or relating to subject matter that has been designated as “Confidential” or “Highly Confidential – Outside Attorneys Eyes Only” or would be considered to fall under one of these designations by a party in this case pursuant to the Discovery Confidentiality Order or contain information that is of such a highly sensitive nature that it is not appropriate for public disclosure.

THE COURT FURTHER FINDS that this is a patent action that involves confidential information and, specifically the Transcripts contain confidential information regarding business strategies, trade secrets or other confidential research, development, formulation, manufacturing, regulatory, financial, marketing, commercial or competitive information or analysis of the producing party, or of a third party if such material is or was within the possession, custody, or control of the producing party, that each party has a legitimate interest in protecting as confidential and that competitors in the marketplace could utilize to gain an unfair competitive advantage to their detriment;

THE COURT FURTHER FINDS that the interests of the public that warrant granting an Order to Seal the Transcripts include the interest of not burdening litigants' access to the Court by requiring public disclosure of valuable confidential information as a condition of litigating their rights;

THE COURT FURTHER FINDS that the clearly defined and serious injury that would result should an Order to Seal the Transcripts not be granted is that valuable business and trade secrets created at substantial expense by third parties Bayer Healthcare Pharmaceuticals, Inc. ("Bayer") and Novartis Pharmaceuticals Corporation ("Novartis") will be lost and competitors would unjustly gain access to them. Specifically, Bayer's and Novartis's confidential business information would be revealed to their competitors and these competitors would unjustly gain the ability to thwart, anticipate or usurp those plans and strategies to the competitors' advantage and the party's loss;

THE COURT FURTHER FINDS that no less restrictive alternative is available to prevent the defined and serious injury to the parties.

THE COURT FURTHER FINDS that Biogen has complied with the dictates set forth in Local Civil Rules 5.3(c), 5.3(g), and in case law related thereto.


THEREFORE, IT IS on this 2nd day of May, 2019;

ORDERED that the following document and information shall be maintained under seal by the Clerk of Court based on the foregoing findings of fact and conclusions of law:

- **Redacted Portions of the Transcript of Proceedings from the Trial held before the Honorable Claire C. Cecchi, U.S.D.J. on the afternoon of January 29, 2018 [ECF No. 1048]; and**
- **Redacted Portions of the Transcript of Proceedings from the Trial held before the Honorable Claire C. Cecchi, U.S.D.J. on the morning of February 1, 2018 [ECF No. 1049]**

as described in the Indexes submitted in support of the Motion.

SO ORDERED:

A handwritten signature in black ink, appearing to read "Mark Falk", written over a horizontal line.

MARK FALK
U.S. Magistrate Judge